



COMMUNITY DEVELOPMENT DEPARTMENT

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Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 9, 2009

PRESENT: Koepp-Baker, Hart, Liegl, Moniz, Mueller, Tanda

ABSENT: Escobar

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, and Planning Support Staff Buck

Chair Koepp-Baker called the meeting to order at 7:00 pm, inviting all present to join as she led the pledge of allegiance to the U.S. flag. Newly appointed Commissioners Hart and Liegl were given a hearty welcome.

DECLARATION OF POSTING OF AGENDA

Planning Support Staff Buck certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda.

City Attorney Dan Wan was welcomed; he then gave an overview of his work for the City, including interface with the Planning Commission. The Commissioners thanked him for his time, and expressed appreciation of being able to have access to his expertise.

With no one others present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

May 26, 2009

COMMISSIONERS MONIZ/TANDA MOTIONED TO APPROVE THE MAY 26, 2009 MINUTES WITH THE FOLLOWING REVISIONS:

Page 1; (public comment): ~~hospital~~ *Community Center*

Page 8, paragraph 2: ~~Commissioner Moniz~~ *Vince Burgos*

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THE MOTION PASSED (4-0-2-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: HART, LIEGL; ABSENT: ESCOBAR

1)SELECTION OF CHAIR AND VICE- CHAIR

Select members to serve as Chair and Vice-Chair for a one-year term in accordance with with City Council adopted policy.

PM Rowe presented the staff report, advising of City Council Policy and past practice for determining the sequential order of seniority for choosing a Chair and Vice Chair. He noted that Commissioner Tanda was in next line to be Chair (and was currently serving as Vice Chair), with Commissioner Mueller being in succession for Vice Chair.

COMMISSIONERS MONIZ/KOEPP-BAKER MOTIONED SELECTION OF COMMISSIONER TANDA AS THE NEW CHAIR AND COMMISSIONER MUELLER AS THE VICE CHAIR. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR

Chair Tanda assumed the seat of Chair, thanking the Commissioners for their support. Chair Tanda then invited the newly seated Commissioners to provide self introductions; Both Commissioner Hart and Commissioner Liegl responded graciously, and were again welcomed by all present.

PUBLIC HEARINGS:

2)USE PERMIT AMENDMENT, UPA-87-09: DEWITT-WEST HILLS COMMUNITY CHURCH

A request to amend an existing use permit for a Church on a 10.5-acre site to allow the continuing use of four existing portable buildings totaling 8,956 sq. ft. for use as classroom facilities and bathroom facilities for a five-year period. The site is located at 16695 Dewitt Ave, in the Open Space zoning district.

PM Rowe presented the staff report, explaining this request is for ‘maintaining the status quo’ at the site, as there have been portable structures on the site since the granting of the Use Permit (UP). PM Rowe then provided an overview of the various approvals for placement of the buildings, with extensions being granted for retention of the buildings. The unique location of the site (part in the County and part in the City) was detailed. “Since this is a Use Permit, findings for approval is required,” PM Rowe said, “along with an environmental assessment being completed.” He went on to detail those findings, and advised that there is not objection by Planning Staff for the five-year extension.

Chair Tanda opened the public hearing.

Brad Mortensen, Pastor of West Hills Church, was present to address the Commissioners. Pastor Mortensen thanked staff and asked favorable consideration of the request.

With no others present to speak to the matter, the public hearing was closed.

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COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN EXTENSION ~~OF FIVE~~ TO ALLOW FOUR EXISTING TEMPORARY BUILDINGS TO REMAIN ONSITE (AT 16695 DEWITT AVE, IN THE OPEN SPACE ZONING DISTRICT) FOR A PERIOD OF FIVE YEARS. NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER KOEPP-BAKER SECONDED THE MOTION.

Under discussion, Commissioner Liegl asked for clarification of notification of area residents, with PM Rowe explaining the procedure.

Noting he had visited the site some time previous with an observation of the presence of dry rot to the portable buildings, Commissioner Liegl asked if the buildings had been inspected and if they were still safe? "Are the buildings in good enough condition to continue to be used?" he asked.

The public hearing was reopened.

Pastor Mortensen said he had not observed such problems, e.g., dry rot, but offered to have a contractor check the buildings for safety and being in 'good shape'. Responding to further questions, he confirmed that the new deck is a Trex product, and said safety handrails have been added and ensured for quality.

The public hearing was closed.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR

**3)EXCEPTION
TO LOSS OF
BUILDING
ALLOTMENT
AWARDED TO
APPLICATION
MC-05-04:
MONTEREY
CITY OF MH
(SHERMAN
HOUSE):**

A request for a 21 month extension of time on a building allotment awarded under the Downtown Small Vertical Mixed Use RDCS competition for the fiscal year 2008-09.

PM Rowe gave the staff report, noting that this extension of time is covered under the City Policy of Exception to Loss of Building Allotment not being the fault of the developer. He gave an overview of the transfer in 2007 of building allotments by 2008-09 by the Council, with the applicant is now proposing to have an extension of time to preserve the allocations and commitments that go with them. PM Rowe noted that a correction in the Resolution would correctly reflect the request is for 21 months not one-year.

Chair Tanda opened, and then closed, the public hearing as there were none present indicating a wish to speak to the matter.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, RECOMMENDING APPROVAL OF A 21-MONTH EXTENSION OF TIME ON THE RESIDENTIAL BUILDING ALLOTMENT FOR APPLICATION MP-05-04: MONTEREY - SHERMAN HOUSE. COMMISSIONER MONIZ SECONDED THE MOTION, WHICH PASSED (6-0-0-1) BY THE FOLLOWING VOTE:

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**AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA;
NOES: NOTE; ABSTAIN: NONE; ABSENT: ESCOBAR**

4)BUILDING ALLOTMENT FOR FISCAL YEAR 2011-12 OCTOBER 2009 RDCS COMPETITION AND POSSIBLE SET-ASIDES

Chair Tanda explained this was a request for inclusive action for building allotments for FY 2011-12, the 10/2009 RDCS competition, and consideration of possible set-asides.

PM Rowe responded to a request from the Chair to provide an overview of the issue(s), detailing the formula for determining the number of allocations to be considered in an RDCS competition. He explained that this series of actions being considered at this meeting forwarding the following recommendations to the City Council

- authorize an RDCS competition for the upcoming fiscal year, determining it to be a one year competition (with a portion of the building allotments perhaps extended into a second fiscal year
- that ten units be reserved for the Central Core areas the action set by Measure A (set asides for downtown) [CDD Molloy Previsich elaborated on this issue later in the meeting, noting that this CCR and CCL Districts – both mixed use districts – have been upgraded to include other areas with the geographical range of DownTown]
- reserve 30 units for multi-family rental units
- reserve a portion of the building allocation for affordable, micro and small projects, senior and custom lot competitions (further identified in the distributed staff report)
- reserve up to 48 building allotments for on-going projects that choose not to participate in the next competition – or fail to score high enough to obtain a greater allotment
- the balance of the allotment be awarded to projects in the Open/Market competition (which the City County indicated by consensus that they would support for later this year)
- direct staff to revise the two existing Measure F policies to order to streamline the ‘F’ process to reflect the Measure A policy (as approved by the voters in the recent election), in as much as such would be possible; staff could allocate the units not tied to specific years – these matters will be returned to the Planning Commission for further input following staff study

PM Rowe also provided an overview of the recommendations for distribution for each building allotment category – which he explained - for FY 2011-12:

Competition Category	Allotment(s)
On-going projects	48
Affordable Set-aside	30
Micro projects	6
Small projects	9
Multi-family rental	30
Open/Market	30
Senior housing	30
Custom Lot projects	5
Central Core Area projects	10
Total	198

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PM Rowe called attention to Page 2 (C) of the prepared Resolution: The distribution of allotment by housing type and number of dwelling units may be modified by the Planning Commission at time of award of allotment based on demand for a particular unit type provided that no less than 33 percent of the allotment is awarded to single-family dwellings. He reminded that this responsibility had been given to the Commission by the City Council and had been exercised earlier this year when this year's competition when no affordable applications had been received, but other housing types could utilize the allotments.

Commissioner Koepp-Baker asked if there are exceptions anticipated to the Downtown Plan which might cause variation to the report as presented. PM Rowe responded that the former Flea Market Site has been withdrawn from the On-going project list as this project is now eligible to receive the remaining building allotment under Measure A. She also asked, regarding the on-going projects developers, if they would be willing/able to receive the allocations reserved for such? PM Rowe responded that he had not received information from the developers directly, but that staff was monitoring the projects, with a couple indicating the wish to move forward into the submittal process, including encouraging projects not able to move forward to consider the 'trade' program, put into place by the City last year.

Commissioner Mueller suggested it might be viable to move the 10 units (Central Core Area projects) to other than the downtown – which has been identified as a much large area, why not just throw them into the Open Market category? CDD Molloy Previsich said, "I think it could be potentially more difficult to compete as a mixed use, high density category. So providing a category for near downtown for a more complex category which would be near downtown and could be what the voters indicated with Measure A that they wanted for the area of Downtown. This specialized category should help the developers be able to design projects just for that general area."

Commissioner Koepp-Baker asked if developers had indicated interest in having mixed use projects of this type for the area designated. CDD Molloy Previsich responded, "Given the economy, we just don't know. However, when we were creating the CLR(Light Commercial/Residential) zoning, property owners expressed support for the residential in addition to certain types of commercial and office. I have heard of a developer north of Main, on the east side of Monterey, who is interested in getting additional units in conjunction with the Downtown Specific Plan."

Commissioner Mueller said, "With only 10, we might be getting something started that could be perpetuated for an awfully long time." CDD Molloy Previsich rejoined, "If that is a concern, you could consider putting more allotments into that category. Our thinking was to give developers a 'leg up' by initiating the category. We are aware of the developer north of Main who we think he wants at least four allocations. There may others. At least, we feel it is worth exploring. Having their own category may be beneficial to others at well."

Commissioner Liegl said, "When I hear the term *high density*, I think of taxing on City services. Have we done the numbers for police, fire, and medical response?"

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CDD Molloy Previsich said, "Yes that will be in the environmental assessment available later this fall." Commissioner Liegl continued, "I hear that our resources are strained right now. Will we be able to provide the services needed when the allocations are awarded?" CDD Molloy Previsich responded, "The amount of services needed for the expansion have been evaluated by the General Plan and updates to the General Plan. Policies are supported for having the infill areas completed rather than adding population on the periphery." She said – responding to a further question from Commissioner Liegl – that she was confident that the planned services were sufficient to meet the need.

Commissioner Moniz asked, "Where do you come up with the numbers on the list of categories and the amounts for each category?" PM Rowe gave an overview of the methodology for categorical quantities.

Commissioners asked questions regarding specific items for scoring in the various categories, e.g., on-going projects/automatic allocations (15 per year). PM Rowe and Commissioner Mueller provided overviews of the on-going category, with Commissioner Mueller saying, "Sometimes it's cheaper to take the on-going allotment than to compete anew. Keep in mind, however, that even the on-going projects will have to meet the Build It Green (BIG) category which has been added."

Commissioner Mueller then asked, "In the one category, we are depending on the Downtown Specific Plan and the new zoning stuff to get adopted. If that Plan is not adopted by October 15, then they won't be able to get it done (compete)." CDD Molloy Previsich spoke to the requirements of the General Plan being met in the RDCS competition. We are trying to get the rezoning changes, General Plan amendments, and the compliance issues in place. If the City changes the text, the practice would be met." Commissioner Mueller explained the 'grace period' which must be met before the application is submitted. CDD Molly Previsich pointed CLR and CCR zoning will not change, but the City will change the density, if adopted.

Chair Tanda opened the public hearing. *Chair Tanda asked the Commissioners to try to ask questions of the applicants during the public hearing to minimize the need for having 'reopening' of the public hearings.*

Rocke Garcia, 14500 Sycamore Dr., addressed the Commissioners, saying, "I think all of you have received our letter in the packet. We hope to do a 5-lot subdivision in the southwest part of town. There are quite a few properties in the City which will qualify for the Custom Home category, so that should be a good competition. We have not done custom homes for quite a long time. But we think this will be a good opportunity for us."

Scott Schilling, 16060 Caputo Dr., #160, spoke about the intersection of Dunne and Church streets, where he has two parcels adjacent to the rail road tracks, for which 18 allocations had been given in the last competition. Mr. Schilling said this property was located in a CC-R zoning district. His concerns, he said, were that this multi-family project would need a larger number of allocations over a shorter period of time. Mr. Schilling said, "A major concern is that even though it is in the vicinity of Downtown, this project got cut out of all the downtown core area even though it

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is a critical gateway site to the area. I hope we can have the availability for competition in the upcoming Open Market or other category.”

Commissioner Mueller asked Mr. Schilling what the scoring was for the project. [181 points, adding an editorial comment!).

Chair Tanda asked for clarification of the location, which Mr. Schilling explained.

Vince Burgos, 220 Live Oak Dr.; Danville, of Development Processing Consultants, said he has a number of clients who are looking to continue their applications for additional allocations this year. He gave a brief overview of each of those potential applications. Mr. Burgos said a number of small projects – not micros – are anticipated for this year. Mr. Burgos responded to questions from the Commissioners regarding specific projects, including scoring and status of various projects.

The public hearing was closed since no others in attendance indicated an interest in speaking to the subject.

Commissioners engaged in discussion of:

- alignment of Measure F – how Sherman House would fit into a ‘revamped’ project description - CDD Molloy Previsich explained the need for clear definitions in the study of the Measure F issues, and declared the intent to have staff work diligently for returning the matter to the Commissioners, ensuring the commitments made under Measure C were upheld
- the draft set of numbers being able to address/encompass the issues brought forward by the speakers of the evening
- the need to ascertain the ongoing projects are scored eligibility-wise to obtain additional automatic allocations
- reason use on-going set asides is to avoid problems; originally the on-going was set up for 2 year competitions
- lower scoring projects could cause gap in number of allocations available
- process for allocation of Measure A units [first-come; first served; rejoined with Measure F]; method of prioritization

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE CONDITIONS AND FINDINGS THEREIN, RECOMMENDING HOUSING TYPE DISTRIBUTION AND TERM FOR THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM COMPETITION TO BE CONDUCTED DURING FY 2009-10. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION.

Under discussion, Chair Tanda asked about the content of the prepared Resolution, noting that there were eight items being addressed within the Resolution.

CDD Molloy Previsich further clarified that in the Resolution (list of categories) the ‘Central Core’ would be replaced with CCR and CLL designations in Section 2 (A).

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES:

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**KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES:
NOTE; ABSTAIN: NONE; ABSENT: ESCOBAR**

**5)EXTENSION
TO THE
BELOW
MARKET RATE
(BMR)
REDUCTION
PROGRAM:**

Discussion on a proposal to extend the time period under which a homebuilder may receive a reduction or waiver of the commitment to provide new BMR housing units that are affordable to low and median income households.

PM Rowe gave the staff report, noting this was a matter referred from a previous meeting, and was the subject of several subcommittee discussions. Mr. Dick Oliver, PM Rowe said, had brought up the item and asked for discussion. Mr. Oliver, he said, was not able to be present for the meeting tonight, but had sent an e-mail with a report attached.

In the first quarter of 2009, PM Rowe detailed, there had been only one transaction of builder to owner sales, with all others being in the foreclosure category. The discussion at this meeting, PM Rowe said, was to determine for extending the time in which the builder may be eligible for to provide BMRs made in the commitment. PM Rowe also reviewed the policy set by the City Council regarding the amendments for BMRs commitments, with a September 30, 2009 deadline for starting the project. Other nuances of the policy – designed to reduce builder's costs - were explained, as well. Local home builders have asked for a new date of September 30, 2010. Only one of the existing projects has been able to meet the scheduling milestones for reduction of BMR dwellings. PM Rowe said it appears that extending the date has not met with the success hoped for.

PM Rowe reminded that Commissioners had asked for the builders to contact local lenders to speak with the Commissioners during a meeting. Scott Schilling had provided an e-mail (via Commissioner Mueller) regarding current local lending practices and projections to the Commissioners.

PM Rowe explained the staff recommendation of the BMR reduction production which would extend the waiver for one year to September 30, 2010 and the reduced BMR program extended six months to April 30, 2011. "If the housing market has not improved by the end of 2010, the April deadline could be extended another six months prior to the April deadline," PM Rowe advised.

Chair Tanda opened the public hearing.

Rocke Garcia addressed the Commissioners telling them he was representing Mr. Oliver, as Scott Schilling would be. Mr. Garcia said he had asked his lender to provide a letter regarding the availability of financing. The officials of the bank declined, 'but the status of lending is in flux and not readily available'. Mr. Garcia said that with the Capriano project, he is 'ready to go' once the funding becomes available.

Scott Schilling thanked the Commissioners for considering this matter – as Mr. Garcia did, also. Mr. Schilling spoke to the projects he is involved with at the present time. "When the BMR reduction program went into effect, we had a significant price drop (\$22,000 per unit) which helped with sales greatly," Mr. Schilling said. "Now the pressure is tremendous to try to pay down debt. We are

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trying to sell at the price that our low-income provider is.” Mr. Schilling went on to tell of beginning interest in sales, and said he hoped that this would help. He told of having to do serious renegotiation with lenders. “Anything we can do to help reach a selling price would be beneficial. I’m hopeful that we do see deals coming together to go forward.”

Commissioner Liegl asked Mr. Schilling if the seven months extension would be reasonable and beneficial with the way the economy is now. Ascertaining the extension would be for 12-months, Mr. Schilling said it would be a ‘huge help’. “If we don’t see improvement in 12 months, we may be gone. I have several deals and the extension will be a big help.”

Commissioner Moniz asked Mr. Schilling to comment on the age and loan status of the potential buyers. Mr. Schilling spoke of the difficulty of having the prospective buyers qualify for loans.

Commissioner Koepp-Baker thanked Mr. Schilling for obtaining the financial information shared in the distributed e-mail.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Mueller disclosed discussions he had with developers and appraisers who work on construction projects regarding this matter. He indicated the discussion included evaluation explanation of the projects within the City.

Commissioner Mueller suggested a “check point” early next year..March 2010 before the 9/30/10 date...

COMMISSIONERS MUELLER/KEOPP-BAKER MOTIONED TO RECOMMEND TO THE CITY COUNCIL EXTENSION OF THE BMR REDUCTION PROGRAM FOR ONE YEAR TO SEPTEMBER 30, 2010, WITH THE REDUCED BMR PROGRAM BEING EXTENDED SIX MONTHS TO APRIL 30, 2011; AND HAVING A ‘CHECK POINT’ (PROGRAM REVIEW) EARLY NEXT YEAR, E.G., MARCH OR APRIL 2010 - SIX MONTHS AHEAD OF THE NEW SIX MONTHS EXTENSION TO ASCERTAIN THE IMPACT OF THIS CURRENT ACTION. THE MOTION WHICH PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR

6)ZONING
AMENDMENT,
ZA-09-05: CITY
OF MH-SMALL
LOT SFD
ZONING
DISTRICT:

Review and discuss new general plan land use designation of Single Family High (6-11 Du/Ac) and zoning text amendments proposed to incorporate a High-Density Single-Family (R-1 4,000) zoning district into Chapter 18 Zoning, of the Morgan Hill Municipal Code.

SP Linder gave a brief history of this matter for the benefit of the new commissioners. She then addressed some of the concerns from the prior Planning Commission meeting, presenting photos as examples of various developments.

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Commissioner Moniz had some questions and made comments regarding the proposed zoning. Commissioner Liegl shared his comments and said he had no problem with this. Commissioner Mueller expressed concern with lot sizes as small as 4000 sq. ft. Commissioner Hart express similar concerns about having big houses on small lots. A field trip was suggested by Chair Tanda.

SP Linder said she would poll the Commissioner's via e-mail to arrange a date and time for a field trip. SP Linder recommended the Commission continue the hearing on this application request to the July 14 meeting.

COMMISSIONERS MUELLER/ MONIZ MOTIONED TO CONTINUE MATTER OF ZONING AMENDMENT, ZA-09-05: CITY OF MH-SMALL LOT SFD ZONING DISTRICT TO THE MEETING OF JULY 14, 2009, WITH A FIELD TRIP BEING ARRANGED BEFORE THE CONTINUED DISCUSSION. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR**

OTHER:

Discuss and approval of Summer Meeting Schedule

7)SUMMER MEETING SCHEDULE:

Following discussion of this matter, **COMMISSIONERS MUELLER/ KOEPP-BAKER MOTIONED TO CANCEL THE SECOND MEETING FOR THE MONTH OF AUGUST, 2009. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, LIEGL, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR**

WORKSHOP:

8)DOWNTOWN SPECIFIC PLAN:

STAFF ADVISED THIS MATTER WAS RE-AGENDIZED FOR THE JUNE 23RD PLANNING COMMISSION MEETING.

ANNOUNCEMENTS COMMISSIONER IDENTIFIED ISSUES

None

CITY COUNCIL REPORTS

None

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Tanda adjourned the meeting at 9:56 pm.

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MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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